

अण्डमान तथा  
Andaman And



निकोबार राजपत्र  
Nicobar Gazette

असाधारण

EXTRAORDINARY

प्राधिकार से प्रकाशित

Published by Authority

सं. 2, पोर्ट ब्लेयर, बुधवार, 9 जनवरी, 2008

No. 2, Port Blair, Wednesday, January 9, 2008

अण्डमान तथा निकोबार प्रशासन

ANDAMAN AND NICOBAR ADMINISTRATION

सचिवालय/SECRETARIAT

NOTIFICATION

**Port Blair, dated the 9<sup>th</sup> January, 2008**

No.F.No.3-132/2006-LSG. Whereas the draft A & N Islands Municipal Services (Classification, Control and Appeal) Rules, 2008 were published in the Daily Telegrams on 16.2.2008 inviting suggestions from the general public giving a period of 25 days for filing objections/suggestions.

AND WHEREAS suggestions received from various quarters have been examined and given due consideration.

Now, therefore, in exercise of the powers conferred under Sub-section(1) and Sub-Section(2)(d) of Section 203 of the A&N Islands (Municipal) Regulation, 1994, and all other powers enabling me in this behalf I, Bhopinder Singh, the Lieutenant Governor (Administrator), Andaman and Nicobar Islands hereby make the following Rules with immediate effect.

**THE ANDAMAN AND NICOBAR ISLANDS MUNICIPAL SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES, 2008.**

**Part I – General**

**1. Short title and commencement** – (1) These rules may be called the A&N Islands Municipal Services (Classification, Control and Appeal) Rules, 2008.

(2) They shall come into force from the date of their publication in the Official Gazette.

**2. Definitions** – In these rules, unless the context otherwise requires-

- (a) 'Administration' means the Union Territory of Andaman and Nicobar Islands represented by the Administrator.
- (b) 'Administrator' means the Lt. Governor of the Union Territory of A & N Islands appointed by the President of India under Article 239 of the Constitution.
- (c) 'Appointing authority' in relation to a Municipal servant means the Municipal Council constituted under section 7 of the Regulation.
- (d) 'Commission' means Central Vigilance Commission.

- (e) 'Disciplinary authority' means the authority competent under these rules to impose on a Municipal servant any of the penalties specified in Rule 7.
- (f) 'Municipal servant' includes an officer or servant holding a post under Municipal Council but not a part-time employee or staff or persons paid from contingencies.
- (g) Regulation means "The Andaman and Nicobar Islands (Municipal) Regulation, 1994.
- (h) Secretary "Urban Local Body" means Secretary of the A & N Administration in charge of the Municipal Council.
- (i) 'Section' means a section of the Regulation.
- (j) 'Service' means Municipal service of a Municipality constituted under the Regulation.
- 3. Application-** Save as otherwise provided by or under these rules, these rules shall apply to persons appointed to Municipal services and posts in connection with the affairs of the Municipality:

Provided that nothing in these rules shall apply to any Municipal servant who is-

- (a) Not borne in the service of the Municipal Council;
- (b) a person not in whole time employment;
- (c) a person paid otherwise than on a monthly basis including those paid only on a piece-rate basis;
- (d) a person paid out of contingencies; and
- (e) any other category of persons whom the Administration may by order specifically exclude from the operation of all or any of the provisions contained in these rules.

### Part II – Classification

- 4. Classification of Service –** The municipal services shall be classified as follows (As per pay Rules, 1997) :-

S.No.	Description of posts	Classification of posts
(1)	(2)	(3)
1.	A Post carrying a pay or a scale of pay of not less than Rs. 13,500	Group 'A'
2.	A post carrying a pay or a scale of pay with a maximum of not less than Rs. 9000, but less than Rs. 13,500	Group 'B'
3.	A post carrying a pay or a scale of pay with a maximum of over Rs. 4000, but less than Rs. 9000	Group 'C'
4.	A post carrying a pay or a scale of pay the maximum of which is Rs.4000 or less	Group 'D'

Explanation:- For the purpose of this rule –

- (i) 'Pay' has the same meaning as assigned to it in FR 9 (21)(a) (I);

- (ii) 'Pay or scale of pay', in relation to a post, means the pay or the scale of pay of the post prescribed under the Central Civil Services (Revised Pay) Rules, 1997.

### **Part III – Appointing Authority**

#### **5. Appointment to the posts –**

- (1) All appointments to group 'A' and group 'B' posts in the Municipal services shall be made by the Municipal Council, in accordance with the notified Recruitment Rule and each such appointment shall be subject to the approval of the Administrator.

No. F.No.3-132/2006-LSG. Whereas the draft A & N Islands Municipal Services (Classification, Control and Appeal) Rules, 2008 were published in the Daily Telegrams on 16.2.2008 inviting suggestions from the general public giving a period of 25 days for filing objections/suggestions.

AND WHEREAS suggestions received from various quarters have been examined and given due consideration.

Now, therefore, in exercise of the powers conferred under Sub-section(1) and Sub-Section(2)(d) of Section 203 of the A&N Islands (Municipal) Regulation, 1994, and all other powers enabling me in this behalf I, Bhopinder Singh, the Lieutenant Governor (Administrator), Andaman and Nicobar Islands hereby make the following Rules with immediate effect.

THE ANDAMAN AND NICOBAR ISLANDS MUNICIPAL SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES, 2008.

### **Part I – General**

- 6. Short title and commencement** – (1) These rules may be called the A&N Islands Municipal Services (Classification, Control and Appeal) Rules, 2008.

(2) They shall come into force from the date of their publication in the Official Gazette.

- 7. Definitions** – In these rules, unless the context otherwise requires-

- (a) 'Administration' means the Union Territory of Andaman and Nicobar Islands represented by the Administrator.
- (b) 'Administrator' means the Lt.Governor of the Union Territory of A & N Islands appointed by the President of India under Article 239 of the Constitution.
- (c) 'Appointing authority' in relation to a Municipal servant means the Municipal Council constituted under section 7 of the Regulation.
- (d) 'Commission' means Central Vigilance Commission.
- (e) 'Disciplinary authority' means the authority competent under these rules to impose on a Municipal servant any of the penalties specified in Rule 7.
- (f) 'Municipal servant' includes an officer or servant holding a post under Municipal Council but not a part-time employee or staff or persons paid from contingencies.
- (g) Regulation means "The Andaman and Nicobar Islands (Municipal) Regulation, 1994.
- (h) Secretary "Urban Local Body" means Secretary of the A & N Administration in charge of the Municipal Council.
- (i) 'Section' means a section of the Regulation.

(j) 'Service' means Municipal service of a Municipality constituted under the Regulation.

**8. Application-** Save as otherwise provided by or under these rules, these rules shall apply to persons appointed to Municipal services and posts in connection with the affairs of the Municipality:

Provided that nothing in these rules shall apply to any Municipal servant who is-

- (a) Not borne in the service of the Municipal Council;
- (b) a person not in whole time employment;
- (c) a person paid otherwise than on a monthly basis including those paid only on a piece-rate basis;
- (d) a person paid out of contingencies; and
- (e) any other category of persons whom the Administration may by order specifically exclude from the operation of all or any of the provisions contained in these rules.

## **Part II – Classification**

**9. Classification of Service –** The municipal services shall be classified as follows (As per pay Rules, 1997) :-

S.No.	Description of posts	Classification of posts
(1)	(2)	(3)
1.	A Post carrying a pay or a scale of pay of not less than Rs. 13,500	Group 'A'
2.	A post carrying a pay or a scale of pay with a maximum of not less than Rs. 9000, but less than Rs. 13,500	Group 'B'
3.	A post carrying a pay or a scale of pay with a maximum of over less than Rs. 9000	Rs. 4000, but Group 'C'
4.	A post carrying a pay or a scale of pay the maximum of which is Rs.4000 or less	Group 'D'

Explanation:- For the purpose of this rule –

- (iii) 'Pay' has the same meaning as assigned to it in FR 9 (21)(a) (I);
- (iv) 'Pay or scale of pay', in relation to a post, means the pay or the scale of pay of the post prescribed under the Central Civil Services (Revised Pay) Rules, 1997.

### **Part III – Appointing Authority**

#### **10. Appointment to the posts –**

- (2) All appointments to group 'A' and group 'B' posts in the Municipal services shall be made by the Municipal Council, in accordance with the notified Recruitment Rule and each such appointment shall be subject to the approval of the Administrator.
- (3) All appointments to group 'C' and group 'D' posts in the Municipal services shall be made by the Municipal Council, in accordance with the notified Recruitment Rule subject to the provisions of section 28 of the Regulation.
- (4) The DPC/Selection Committee for recruitment to Group 'A' and Group 'B' posts shall be chaired by the Secretary (Urban Local Body), A & N Administration and shall include Secretary, Municipal Council, Officer of the rank of Assistant Secretary or above (ULB), A & N Administration and two subjects expert to be nominated by Chief Secretary, A & N Administration.
- (5) The DPC/Selection Committee for recruitment to Group 'C' and Group 'D' posts shall be chaired by the Secretary, Municipal Council, and shall include Officer of the rank of Assistant Secretary or above (Urban Local Body), A & N Administration and two subject experts to be nominated by Chief Secretary, A & N Administration.
- (6) The DPC/Selection Committee indicated in Col.13 of the RRs notified vide Notifications No. 289/2005 dt. 24.10.2005, 26/2006 dt. 02.02.2006 and 152/2006 dt. 25.08.2006 are hereby rescinded.

### **Part IV – Suspension**

**11. (1)** The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in this behalf by the Administrator by general or special order may place a Municipal servant under suspension –

- (a) when a disciplinary proceeding against him is contemplated or is pending; or
- (b) when in the opinion of the authority aforesaid, he has engaged himself in activities pre-judicial to the interest of the Municipality or the security of the State ; or
- (c) when a case against him in respect of any criminal offence is under investigation, inquiry or trial;

Provided that, where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

(2) A Municipal servant shall be deemed to have been placed under suspension by an order of competent authority-

- (a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty-eight hours;
- (b) with effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

**Explanation :** - The period of forty eighty hours referred to in clause (b) of this sub-rule shall be computed from the commencement of imprisonment after conviction and for this purpose intermittent period of imprisonment if any, shall be taken into account.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Municipal servant under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further order.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Municipal servant is set aside or declared or rendered void in consequence of or by a decision of a court of law and the disciplinary authority on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Municipal servant shall be deemed to have been placed under suspension by the competent authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.

- (7) (a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.
- (b) Where a Municipal servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise) and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may for reasons to be recorded by him in writing, direct that the Municipal servant shall continue to be under suspension until the termination of all or such proceedings.
- (c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

**Note:-**

(1) A Municipal servant who is detained in custody under any law providing for preventive detention or as result of a proceeding either on a criminal charge or for his arrest for debt shall, if the period of detention exceeds 48 hours and unless he is already under suspension, be deemed to be under suspension from the date of detention until further orders as contemplated under sub-rule(2). Municipal servant who is undergoing a sentence of imprisonment shall be also dealt with in the same manner pending decision on the disciplinary action to be taken against him.

(2) A Municipal servant against whom a proceeding has been taken on a criminal charge but who is not actually detained in custody (e.g a person released on bail) may be placed under suspension by an order of the competent authority under clause (c) of sub-rule (1). If

the charge is connected with the official position of the municipal servant or involving any moral turpitude on his part suspension shall be ordered under this rule unless there are exceptional reasons for not adopting this course.

(3) A Municipal servant against whom proceedings have been taken for arrest for debt but who is not actually detained in custody may be placed under suspension by an order under clause (a) of sub-rule (1) i.e. only if a disciplinary proceedings against him is contemplated.

(4) When a Municipal servant who is deemed to be under suspension in the circumstances mentioned in clause (a) of sub-rule(1) or who is suspended in circumstances mentioned in clause (c) of sub-rule (1) is reinstated without taking disciplinary proceedings against him, his pay and allowances for the period of suspension will be regulated under sub-rules (17) to (25) of rule 24 i.e. in event of his being acquitted of blame or if the proceedings taken against him was for his arrest for debt on its being proved that his liability arose from circumstances beyond his control or the detention being held by any competent authority to be wholly unjustified, the case may be dealt with under sub-rule (19) of rule 24 other wise it may be dealt with under provision to sub-rule (19) of rule 24.

### **Part V – Penalties and disciplinary authorities**

**12. Penalties –** The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on a Municipal servant namely:

#### **Minor Penalties -**

- (i) censure;
- (ii) withholding of his promotion;
- (iii) recovery from his pay of the whole or part of any pecuniary loss caused by him to the Municipality by negligence or breach of order;
- (iv) reduction to a lower stage in the time scale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting his pension;
- (v) withholding of increments of pay;

#### **Major Penalties -**

- (vi) reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the Municipal servant will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;
- (vii) reduction to a lower time-scale of pay, grade, post or service which shall ordinary be a bar to the promotion of the Municipal servant to the time-scale of pay, grade, post or service from which he was reduced, with or without further direction regarding conditions of the restoration to the grade or post or service from which the Municipal servant was reduced and his seniority and pay on such restoration to that grade, post or service;
- (viii) compulsory retirement;
- (ix) removal from service which shall not be a disqualification for future employment under the Municipal service;
- (x) dismissal from service which shall ordinarily be a disqualification for future employment under the Municipal Service.

Provided that, in every case in which (the charge of possession of assets disproportionate to known sources of income or the charge of acceptance) from any person and any gratification other than legal remuneration, as a matter in reward for doing or for hearing to do any official act is established, the penalty mentioned in clause (ix) or (x) shall be imposed.

**Explanation:** - The following shall not amount to penalty within the meaning of this rule, namely:-

- (i) withholding of increments of pay of a Municipal servant for his failure to pass any departmental examination in accordance with the rules or orders governing the service to which he belongs or post which he holds or the terms of his appointment;
- (ii) stoppage of a Municipal servant at the efficiency bar in the time-scale of pay on the ground of his unfitness to cross the bar;
- (iii) non-promotion of a Municipal servant, whether in a substantive or officiating capacity, after consideration of his case to a service, grade or post for promotion to which he is eligible;
- (iv) reversion of a Municipal servant officiating in a higher service, grade or post to a lower service, grade or post, on the ground that he is considered to be unsuitable for such higher service, grade or post on any administrative ground unconnected with his conduct;
- (v) reversion of a Municipal servant, appointed on probation to any other service, grade or post, to his permanent service, grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the rules and order governing such probation;
- (vi) compulsory retirement of a Municipal servant in accordance with the provisions relating to his superannuation or retirement;
- (vii) termination of services-
  - (a) of a Municipal servant appointed on probation, during or at the end of the period of his probation in accordance with the terms of his appointment or the rules and order governing such probation; or
  - (b) of a Municipal servant, employed under an agreement in accordance with the terms of such agreement.

### **13. Disciplinary authorities –**

- (1) The Municipal Council may, by special resolution, impose any of the penalties specified in rule 7 on any Municipal servant.
- (2) Without prejudice to the provisions of sub rule-1 above, any of the penalties specified in clauses (i)-(v) of rule 7 may be imposed on a Municipal servant holding the post(s) equivalent to Group 'A' or Group 'B' by the Secretary, Municipal Council.
- (3) Without prejudice to the provisions of sub rule-1 above, any of the penalties specified in clauses (i)-(x) of rule-7 may be imposed by the Secretary, Municipal Council on the municipal servant holding the post(s) equivalent to Group 'C' or 'D'.

### **14. Authority to institute proceedings –**

- (1) The Secretary, Municipal Council may institute disciplinary proceedings against any Municipal servant.



- (2) The Secretary competent under these rules to impose any of the penalties specified in clauses (i) to (v) of rule 7 may institute disciplinary proceedings against any Municipal servant for the imposition of any of the penalties specified in clauses (vi) to (x) of rule 7 notwithstanding that the Secretary is not competent under these rules to impose any of the major penalties on a municipal servant holding the post(s) equivalent to Group 'A' or Group 'B' services.

## **Part VI – Procedure for imposing penalties**

### **15. Procedure for imposing major penalties-**

(1) No order imposing any of the penalties specified in clauses (vi) to (x) of rule 7 shall be made except after an enquiry held, as far as may be, in the manner provided in this Rule and Rule 11.

(2) Wherever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehavior against a Municipal servant, it may itself inquire into or appoint under this rule, an authority to inquire into the truth thereof.

**Explanation:-** Where the disciplinary authority itself holds the inquiry, any reference in sub-rule (7) to sub-rule (20) and in sub-rule (22) to the enquiring authority shall be construed as a reference to the disciplinary authority.

(3) Where it is proposed to hold an inquiry against a Municipal servant under this rule and rule 11, the disciplinary authority shall draw up or cause to be drawn up-

- (i) the substance of the imputations of misconduct or misbehavior into definite and distinct articles of charge;
- (ii) a statement of imputations of misconduct or misbehavior in support of each article of charge, which shall contain-
  - (a) a statement of all relevant facts including any admission or confession made by the Municipal servant.
  - (b) a list of documents by which, and a list of witnesses by whom the articles of charge are proposed to be sustained.

(4) The disciplinary authority shall deliver or cause to be delivered to the Municipal servant a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviors and a list of documents and witnesses by which each articles of charges is proposed to be sustained and shall require the Municipal servant to submit, within 10(ten) days of the receipt of the memorandum a written statement of his defence and state whether he desires to be heard in person.

(5) (a) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or if it considers it necessary to do so, appoint, under sub-rule (2), an inquiring authority for the purpose, and where all the articles of charge have been admitted by the Municipal servant in his written statement of defence the disciplinary authority shall record it findings in each charge after taking such evidence as it may think fit and shall act in the manner laid down in the rule 11.

- (b) If no written statement of defence is submitted by the Municipal servant, the disciplinary authority may itself inquire into the articles of charge or may, if it

considers it necessary to do so, appoint, under sub-rule (2) an inquiring authority for the purpose.

(c) Where the disciplinary authority itself inquires into any article of charge or appoints an inquiring authority for holding any inquiry into such charge, it may, by an order, appoint a Municipal servant or a legal practitioner to be known as the "Presenting Officer" to present on its behalf the case in support of the article of charge.

(6) The disciplinary authority shall where it is not the inquiring authority, forward to the inquiring authority-

- (i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehavior;
- (ii) a copy of the written statement of defence, if any, submitted by the Municipal servant;
- (iii) a copy of the statements of witnesses, if any, referred to in sub-rule (3);
- (iv) evidence providing the delivery of the documents referred to in sub-rule (3) to the Municipal servant; and
- (v) a copy of the order appointing the "Presenting Officer".

(7) The Municipal servant shall appear in person before the inquiring authority on such day and at such time within ten working days from the date of receipt by him of the articles of charge and the statement of the imputations of misconduct or misbehavior, as the inquiring authority may, by notice in writing, specify in this behalf or within such further time not exceeding ten days, as the inquiring authority may allow.

(8) (a) The Municipal servant may take the assistance of any other Municipal servant or the Govt. Servant of the A&N Administration to present the case on his behalf, but may not engage a legal practitioner for the purpose, unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or, the disciplinary authority, having regard to the circumstances of the case, so permits.

**Note :-** The Municipal servant shall not take the assistance of any other Municipal servant who has three pending disciplinary cases on hand in which he has to give assistance.

(b) The Municipal servant may also take the assistance of a retired municipal servant or any other retired Government Servant of the A&N Administration to present the case on his behalf, subject to such condition as may be specified by the Government from time to time by general or special order in this behalf.

(9) If the Municipal servant who has not admitted any of the articles of charge in his written statement of defence or has not submitted any written statement of defence, appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the Municipal servant thereon.

(10) The inquiring authority shall return a finding of guilt in respect of those articles of charge to which the Municipal servant pleads guilty.

(11) The inquiring authority shall, if the municipal servant fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the municipal servant may, for the purpose of preparing his defence-

(i) inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow the documents specified in the list referred to in sub-rule (3);

(ii) submit a list of witnesses to be examined on his behalf;

**Note :-** If the municipal servant applies orally or in writing for the supply of copies of the statements of witnesses mentioned in the list referred to in sub-rule (3), the inquiring authority shall furnish him with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witnesses on behalf of the disciplinary authority.

(iii) give a notice within ten days of the order or within such further time not exceeding ten days as the inquiring authority may allow; for the discovery or production of any documents which are in the possession of Municipal Council, Port Blair but not mentioned in the list referred to in sub-rule (3)

**Note :-** The Municipal servant shall indicate the relevance of the documents required by him to be discovered or produced by the Municipal Council, Port Blair.

(12) The inquiring authority shall, on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the document by such date as may be specified in such requisition.

Provided that the inquiring authority may for reasons to be recorded by it in writing refuse to requisition such of the documents as are, in its opinion not relevant to the case.

(13) On receipt of the requisition referred to in sub-rule (12) every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority:

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the public interest or security of the Municipality, it shall inform the inquiring authority accordingly and the inquiring authority shall on being so informed, communicate the information to the municipal servant and withdraw the requisition made by it for the production or discovery of such documents.

(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the Disciplinary Authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross examined by or on behalf of the municipal servant. The Presenting Officer shall be entitled to re-examine the witnesses on any point on which they have been cross examined but not on any new matter without the leave of the inquiring authority. The inquiring authority may also put such question to the witnesses as it thinks fit.

(15) If it shall appear necessary before the close of the case on behalf of the disciplinary authority, the inquiring authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the Municipal servant or may itself call for new evidence or recall and re-examine any witness and in such case the municipal servant shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned. The inquiring authority shall give the municipal servant an opportunity of inspecting such documents before they are taken on the record. The inquiring authority may also allow the Municipal servant to produce new evidence if it is of the opinion that the production of such evidence is necessary in the interests of justice.

**Note :-** New evidence shall not be permitted or called for or any witness shall not be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.

(16) When the case for the disciplinary authority is closed, the municipal servant shall be required to state his defence, orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded and the municipal servant shall be required to sign the record in either case a copy of the statement of defence shall be given to the Presenting Officer, if any appointed.

(17) The evidence on behalf of the municipal servant shall then be produced. The municipal servant may examine himself in his own behalf if he so prefers. The witnesses produced by the municipal servant shall then be examined and shall be liable to cross examination, re-examination and examination by the inquiring authority according to the provisions applicable to the witnesses for the disciplinary authority.

(18) The inquiring authority may, after the municipal servant closes his case, and shall, if the municipal servant has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the municipal servant to explain any circumstances appearing in the evidence against him.

(19) The inquiring authority may, after the completion of the production of evidence, hear the Presenting Officer, if any, appointed and the municipal servant, or permit them to file written briefs of their respective case, if they so desire.

(20) If the municipal servant to whom a copy of the articles of charge has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before- the inquiring authority or otherwise fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry ex-parte.

(21) (a) Where a disciplinary authority competent to impose any of the penalties specified in clauses (i) to (v) of rule 7, but not competent to impose any of the penalties specified in clauses (vi) to (x) of rule 7 has itself inquired into or caused to be inquired into the articles of any charge and that authority, having regard to its own findings or having regard to its decision on any of the findings of any inquiring authority appointed by it, is of the opinion that the penalties specified in clauses (vi) to (x) of rule 7 should be imposed on the municipal servant that authority shall forward the records of the inquiry to such disciplinary authority as is competent to impose the last mentioned penalties.

(b) The disciplinary authority to- which the records are so forwarded may act on the evidence on the records or may, if it is of the opinion that further examination of any of the witnesses is necessary in the interests of justice, recall the witnesses and examine, cross examine and re-examine the witnesses and may impose on the Municipal servant such penalty as it may

deem fit in accordance with these rules.

(22) Whenever any inquiring authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another inquiring authority which has, and which exercises, such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor and partly recorded by itself:

Provided that if the succeeding inquiring authority is of the opinion that further examination of any of the witnesses, whose evidence has already been recorded is necessary in the interest of justice it may recall, examine, cross examine and re-examine any such witnesses as hereinbefore provided.

(23) (i) After the conclusion of the inquiry, a report shall be prepared and it shall contain-

- (a) the articles of charge and the statement of the imputations of misconduct or misbehavior;
- (b) the defence of the Municipal servant in respect of each article of charge;
- (c) an assessment of the evidence in respect of each article of charge;
- (d) the findings on each article of charge and the reasons therefore.

**Explanation:-** If in the opinion of the inquiring authority, the proceedings of the inquiry established any article of charge different from the original article of the charge, it may record its findings on such article of charge:

Provided that the findings on such article of charge shall not be recorded unless the municipal servant has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

(ii) The inquiring authority, where it is not itself the disciplinary authority, shall forward to the disciplinary authority the records of inquiry which shall include -

- (a) the report prepared by it under clause (i) ';
- (b) the written statement of defence, if any, submitted by the municipal servant;
- (c) the oral and documentary evidence produced in the course of the inquiry;
- (d) written briefs, if any, filed by the Presenting Officer or the municipal servant or both during the course of inquiry; and
- (e) the orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry.

#### **11. Action on the inquiry report-**

(1) The disciplinary authority, if it is not itself the inquiring authority may, for reasons to be recorded by it in writing remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of rule 10 as far as may be.

(2) The disciplinary authority shall forward or cause to be forwarded a copy of the report of the inquiry, if any, held by the Disciplinary Authority or where the Disciplinary Authority is not the Inquiring Authority, a copy of the report of the Inquiring Authority together with its own tentative reasons for disagreement, if any, with the findings of Inquiring Authority on any article of charge to the Government Servant who shall be required to submit, if he so desires, his written

representation or submission to the Disciplinary Authority within fifteen days, irrespective of whether the report is favourable or not to the Municipal Servant.

(2-A) The Disciplinary Authority shall consider the representation, if any, submitted by the Municipal Servant and record its findings before proceeding further in the matter as specified in sub rules(3) and (4).

(3) If the disciplinary authority having regard to its findings on all or any of the articles of charge is of the opinion that any of penalties specified in. clauses (i) to (v) of rule 7 should be imposed on the municipal servant, it shall notwithstanding anything in rule 12 make an order imposing such penalty.

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the Disciplinary Authority to the Commission for its advice and such advice shall be taken into consideration before making any order imposing any penalty on the Municipal Servant.

(4) If the disciplinary authority having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry is of the opinion that any of the penalties specified in clauses (.vi) to (x) of rule 7 should be imposed on the Municipal servant, it shall make an order imposing such penalty and it shall not be necessary to

give the Municipal servant any opportunity of making representation on the penalty proposed to be imposed.

Provided that in every case where it is necessary to consult the Commission, the record of the inquiry shall be forwarded by the Disciplinary Authority to the Commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty on the Municipal Servant.

## **12. Procedure for imposing minor penalties-**

(I) Subject to the provisions of sub-rule (3) of rule 11, no order imposing on a Municipal servant any of the penalties specified in clauses (i) to (v) of rule 7 shall be made except after –

(a) informing the Municipal servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehavior on which it is proposed to be taken and giving him a reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in sub rule (3) to (23) of rule 10 in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking the representation, if any, submitted by the municipal servant under clause (a) and the record of inquiry, if any, held under clause (b) into consideration; and

(d) recording a finding on each imputation of misconduct or misbehavior, and,

(e) Consulting the Commission where such consultation is necessary.

(2) Notwithstanding anything contained in clause (b) of sub-rule (1), if in a case it is proposed, after considering the representation if any, made by the municipal servant under clause (a) of that sub-rule, to withhold increments of pay and such withholding of increment is likely to affect adversely the amount of pension payable to the municipal servant or to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in sub-rules (3) to (23) of rule 10 before making any order imposing on the municipal servant any such penalty.

(3) The record of the proceedings in such cases shall include-

- (i) a copy of the intimation to the municipal servant of the proposal to take action against him ;
- (ii) a copy of the statement of imputations of misconduct or misbehavior delivered to him;
- (iii) his representation, if any;
- (iv) the evidence produced during the inquiry;
- (v) the advice of the Commission, if any,
- (vi) the finding on each imputation of misconduct or misbehaviour; and
- (vii) the orders on the case together with the reasons therefore.

**13. Communication of order** - Orders made by the disciplinary authority shall be communicated to the municipal servant who shall also be supplied with a copy of its findings on each article of charge, or where the Disciplinary Authority is not the Inquiring Authority, a statement of the findings of the Disciplinary Authority together with brief reasons for its disagreement, if any, with the findings of Inquiring Authority and also a copy of the advice, if any, given by the Commission, and where the Disciplinary Authority has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance.

**14. Common proceedings** - Where two or more municipal servants are concerned in any case, the Municipal Council or the Secretary, Municipal Council may make an order directing that disciplinary action against all of them may be taken in a common proceedings.

**15. Special procedure in certain cases** - Notwithstanding anything contained in rule 10 to rule 14-

- (i) Where any penalty is imposed on a Municipal servant on the ground of conduct which has led to his conviction on a criminal charge, or
- (ii) Where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, or
- (iii) Where the Municipal Council is satisfied that in the interest of the security of the state, it is not expedient to hold any inquiry in the manner provided in these rules,
- (iv) "The Municipality Authority may consider the circumstances of the case and make such orders thereon as it deems fit:

Provided that the Municipal servant may be given opportunity of making representation on the penalties proposed to be imposed before any order is made in a case under clause (i) above.

Provided further that the Commission shall be consulted, where such consultation is necessary, before any orders are made in any case under this rule.

## **Part VII-Appeal**

**16. Orders against which no appeal lies** - Notwithstanding anything contained in this part, no appeal shall lie against -

(i) any order of an interlocutory nature or of the nature of a step-in-aid; or the final disposal of a disciplinary proceeding other than an order of suspension;

(ii) any order passed by an inquiring authority in the course of an inquiry under rule 10.

**17. Orders against which appeals lies** - Subject to the provisions of rule 16, a municipal servant may prefer an appeal against all or any of the following orders, namely:-

(i) an order of suspension made or deemed to have been made under rule 6;

(ii) an order imposing any of the penalties specified in rule 7 whether made by the disciplinary authority or by any appellate or reviewing authority;

(iii) an order enhancing any penalty, imposed under rule 7;

(iv) an order which -

(a) denies or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by rules or by agreement; or

(b) interprets to his disadvantage the provisions of any such rule or agreement;

(v) an order -

(a) stopping him at the Efficiency Bar in the timescale of pay on the ground of his unfitness to cross the bar; ,

(b) reverting him while officiating in a higher service, grade or post, to a lower service, grade or post, otherwise than as a penalty;

(c) reducing or withholding the pension or denying the maximum pension admissible to him under the rules;

(d) determining the subsistence and other allowances to be paid to him for the period of suspension or for the period during which he is deemed to be under suspension or for any portion thereof;

(e) determining his pay and allowances -

(i) for the period of suspension, or

(ii) for the period from the date of his dismissal, removal or compulsory retirement from service, or from the date of his reduction to a lower service, grade, post, time-scale or stage in a time-scale of pay, to the date of his reinstatement or restoration to his service, grade or Post ; or

(f) determining whether or not the period from the date of his suspension or from the date of his dismissal, removal, compulsory retirement or reduction to a lower service, grade, post, time-scale of pay or stage in a timescale of pay to the date of his reinstatement or restoration to his service, grade or post shall be treated as a period spent on duty for any purpose.

**Explanation** -In this rule -

(i) the expression "Municipal servant" includes a person who has ceased to be in municipal service;

(ii) the expression 'Pension' includes additional pension, gratuity and any other retirement benefit.



**18. Appellate authority-** A municipal servant, including a person who has ceased to be in municipal service, may prefer an appeal against all or any of the orders specified in rule 17 to the Administrator.

**19. Period of limitation for appeals-** No appeal preferred under this part shall be entertained unless such appeal is preferred within a period of forty five days from the date on which a copy of the order appealed\_against is delivered to the appellant:

Provided that the appellate authority may entertain the appeal after the expiry of the said period, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

**20. Form and contents of appeal-**

(1) Every person preferring an appeal shall do so separately and in his own name.

(2) The appeal shall be presented to the Administrator through the Secretary (Urban Local Body), A&N Administration, a copy being forwarded by the appellant to the authority which made the order appealed against. It shall contain all material statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language and shall be complete in itself.

(3) The authority which made the order appealed against shall on receipt of a copy of the appeal, forward the same with its comments thereon together with the relevant records to the appellate authority without any avoidable delay and without waiting for any direction from the appellate authority.

**21. Consideration of appeal-**

(1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provisions of rule 6 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

(2) In the case of an appeal against an order imposing any of the penalties specified in rule 7 or enhancing any penalty imposed under the said rule, the appellate authority shall consider -

(a) whether the procedure laid down in these rules has been complied with, and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;

(b) whether the findings of the disciplinary authority are warranted by the evidence on the record; and

(c) whether the penalty or the enhanced penalty imposed is adequate, inadequate; or severe; and pass orders -

(i) confirming, enhancing, reducing or setting aside the penalty; or

(ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case:

Provided that –

(i) the Commission shall be consulted in all cases where such consultation is necessary.

(ii) if such enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (vi) to (x) of rule 7 and an inquiry under rule 10 has not already been held in the case, the appellate authority shall, subject to the provisions of rule

15 itself hold such inquiry or direct that such inquiry be held in accordance with the provisions of rule 10 and thereafter, on a consideration of the proceedings of such inquiry and make such order as it may deem fit.

(iii) if the enhanced penalty which the appellate authority proposes to impose is one of the penalties specified in clauses (vi) to (x) of rule 7 and an inquiry under rule 10 has not already been held in the case, the appellate authority shall, make such orders as it may deem fit after the appellant has been given a reasonable opportunity of making a representation against the proposed penalty; and

(iv) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be in accordance with the provisions of rule 12, of making a representation against such enhanced penalty.

3) In an appeal against any other order specified in rule 17, the appellate authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable

**22. Implementation of orders in appeal** – The authority which made the order appealed against shall give effect to the orders passed by the appellate authority.

## **Part VIII-Review**

### **23. Review –**

(1) Notwithstanding anything contained in rules -

(i) the Administrator ; or

(ii) the appellate authority within six months of date of the order proposed to be reviewed; or

(iii) any other authority specified in this behalf by the Administrator by a general or special order and within such time as may be prescribed in such general or special order; may at any time, either on his or its own motion or otherwise call for the records of any inquiry and review any order made under these rules from which an appeal is allowed, but from which no appeal has been preferred or from which no appeal is allowed, and may -

(a) confirm, modify or set aside the order; or

(b) confirm, reduce, enhance or set aside the penalty imposed by the order or impose any penalty where no penalty has been imposed; or

(c) remit the case to the authority which made the order or to any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case; or

(d) pass such other orders as it may deem fit:

Provided that no order imposing or enhancing any penalty shall be made by any reviewing authority unless the Municipal servant concerned has, been given a reasonable opportunity of making representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (v) to (ix) of rule 7 or to enhance the penalty imposed by the order sought to be reviewed to any of the penalty specified in those clauses, no such penalty shall be imposed except after an inquiry in the manner laid down in rule 10 and after giving a reasonable opportunity to the Municipal servant concerned of showing cause against the penalty

proposed on the evidence adduced during the inquiry.

(2) No proceeding for review shall be commenced until after –

(i) the expiry of the period appeal; or of limitation for an appeal; or

(ii) the disposal of the appeal, where any such appeal has been preferred.

(3) An application for review shall be dealt with in the same manner as if it were an appeal under these rules -

**Part IX-Regulation of pay and allowances on  
dismissal, removal and suspension.**

**24. Regulation of pay and allowances of a Municipal servant under suspension or dismissal or removal from Municipal service-**

(1) The pay and allowances of a: Municipal servant who is dismissed or removed from service shall be stopped from the date of such dismissal or removal.

(2) A Municipal servant under suspension or deemed to have been placed - under suspension by an order of the appointing authority shall be entitled to the following, payments, namely:-

(a) a subsistence allowance at an amount equal to the leave salary which the Municipal servant would have drawn if he had been on leave on half average pay or on half pay and in addition, dearness allowance, if admissible on the basis of such leave salary :

Provided that where the period of suspension exceeds three months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first three months as follows:-

(i) the amount of subsistence allowance may be increased by a suitable amount, not - exceeding 50 per cent of the subsistence allowance admissible during the period of the first three months, if, in the ,opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the Municipal servant;

(ii) the amount of subsistence allowance may be reduced by a suitable amount, not exceeding 50 per cent of the subsistence allowance admissible during the period of the first three months, if, in the opinion of the said authority the period of suspension has been prolonged due to reasons, to be recorded in writing, directly attributable to the Municipal servant;

(iii) the rate of dearness allowance will be based on the increased or, as the case may be, the decreased amount of subsistence allowance admissible under sub-clauses (i) and (ii) above.

(b) Any other compensatory allowances admissible from time to time on the basis of pay of which the Municipal servant was in receipt on the date of suspension subject to the fulfillment of other conditions laid down for the drawal of such allowances.

(3) No payment under sub-rule (2) shall be made the Municipal servant furnishes a certificate that he is not engaged in any other employment, business, profession or vacation

(4) When a Municipal servant who has been dismissed, removed or compulsorily retired is reinstated as a result of appeal or review or would have been so reinstated but for his retirement on superannuation while under suspension or not, the authority competent to order reinstatement

shall consider and make a specific order –

(a) regarding the pay and allowances to be paid to the Municipal servant for the period of his absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case be; and

(b) whether or not the said period shall be treated as a period spent on duty.

(5) Where the authority competent to order reinstatement is of opinion that the Municipal servant who had been dismissed, removed or compulsorily retired has been fully exonerated, the Municipal servant shall subject to the provisions of sub-rule (9), be paid the full pay and allowances to which he would have been entitled, had he not been dismissed removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be:

Provided that where such authority is of opinion that the termination of the proceedings instituted against the Municipal servant had been delayed due to reasons directly attributable to the Municipal servant, it may after giving him an opportunity to make his representation within sixty days from the date on which the communication in this regard is served on him and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the Municipal servant shall, subject to the provisions of sub-rule (10), be paid for the period of such delay, only such amount not being the whole of such pay and allowances as it may determine.

(6) In a case falling under sub-rule (5), the period of absence from duty including the period of suspension preceding dismissal, removal or compulsory retirement, as the case may be, shall be treated as a period spent on duty for all purposes.

(7) In cases other than those covered by sub-rule (5) including cases where the order of dismissal, removal or compulsory retirement from service is set aside by the appellate or reviewing authority solely on the ground of non-compliance with the requirements of clause (2) of Article 311 of the Constitution and no further inquiry is proposed to be held, the Municipal servant shall, subject to the provisions of sub-rules (9) and (10), be paid such amount not being the whole of the pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory- retirement, as the case may be, as the competent authority may determine, after giving notice to the Municipal servant of the quantum proposed and after considering the representation, if any, submitted by him in that connection within such period (which in no case shall exceed sixty days from date on which the notice has been served) as may be specified in the notice:

(8) In a case falling under sub-rule (7), the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall not be treated as a period spent on duty, unless the competent authority specifically directs that it shall be so treated for any specified purpose:

Provided that if the Municipal servant so desires, such authority may direct that the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be shall be converted into leave of any kind due and admissible to the Municipal servant.

**Note:** - The order of the competent authority under the preceding provision shall be absolute and no higher sanction shall be necessary for the grant of -

(a) extraordinary leave in excess of three months in the case of temporary municipal servant; and

(b) leave of any kind in excess of five years in the case of permanent or quasi-permanent Municipal servant.

(9) The payment of allowances under sub-rule (5) or sub-rule (7) shall be subject all other conditions which such allowances are admissible.

(10) The amount determined under the proviso rule (5) or under sub-rule (7) shall not be less than the subsistence allowance and other allowances admissible sub-rules (2) and (3).

(11) Any payment made under this rule to a Municipal servant on' his reinstatement shall be subject to adjustment of the amount, if any earned by him through an employment during the period between the date of removal, dismissal or compulsory retirement, as the case may be, and the date of reinstatement. Where the emoluments admissible under this rule are equal to or less than the amounts earned during the employment elsewhere, nothing shall be paid to the municipal servant.

(12) Where the dismissal, removal or compulsory retirement of a municipal servant is set aside by a court of law and such municipal servant is reinstated without holding any further inquiry, the period of absence from duty shall be regularized and the municipal servant shall be paid, pay and allowances in accordance with the provisions of sub-rule (13) or (14) subject to the directions if any, of the court.

(13) (i) Where the dismissal, removal or compulsory retirement of a municipal servant is set aside by the court solely an the ground of non-compliance with the requirements of clause (2) of Article 311 of the Constitution, and where he is not exonerated an merits, the municipal servant shall, subject to the provisions of sub-rule (10) be paid such amount not being the whole of the pay and allowances to. which he would have been entitled had he not been dismissed, removed or compulsorily retired, or suspended prior to such dismissal, removal, or compulsory retirement, as the case may be, as the competent authority may determine, after giving notice to the municipal servant of the quantum proposed and after considering the representation, if any, submitted by him, in that connection within such period (which in no case shall exceed sixty days from the date on which the notice has been served) as may be specified in the notice.

(ii) The period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be, and the date of judgment of the court shall be regularized in accordance with the provisions contained in sub-rule (8).

(14) If the dismissal, removal and compulsory retirement of a Municipal servant is set aside by the court on the merits of the case, the period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be, and the date of reinstatement shall be treated as duty for all purposes and he shall be paid the full pay and allowances for the period, to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be.

(15) The payment of allowances under sub-rule (13) or sub-rule (14) shall be subject to all other conditions under which such allowances are admissible;

(16) Any payment made under this rule to a municipal servant on his reinstatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the date of dismissal, removal or compulsory retirement and the date of reinstatement. Where the emoluments admissible under this rule are equal to or less than those earned during the employment elsewhere, nothing shall be paid to the Municipal servant.

(17) When a Municipal servant who has been suspended is reinstated or would have been so reinstated but for his retirement (including premature retirement) while under suspension, the authority competent to order reinstatement shall consider and make a specific order -

(a) regarding the pay and allowances to be paid to the municipal servant for the period of suspension ending with reinstatement or the date of his retirement on superannuation, as the case may be; and

(b) whether or not the said period' shall be treated as a period spent on duty.

(18) Notwithstanding anything contained in sub-rules (2) and (3), where a municipal servant under suspension dies before the disciplinary or the court proceedings instituted against him are concluded, the period between the date of suspension and the date of death shall be treated as duty for all purposes and his family shall be paid the full pay and allowances for the period to which he would have been entitled had he not been suspended subject to adjustment in respect of subsistence allowance already paid.

(19) Where the authority competent to order reinstatement is of the opinion that the suspension was wholly unjustified, the Municipal servant shall subject to the provisions of sub-rule (23) be paid the full pay and allowances to which he would have been entitled, had he not been suspended.

Provided that where such authority is of the opinion that the termination of the proceedings instituted against the Municipal servant had been delayed due to reasons directly attributable to the Municipal servant, it may, after giving him an opportunity to make his representation within sixty days from the date on which the communication in this regard is served on him and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the Municipal servant shall be paid for the period of such delay only such amount of such pay and allowances as it may determine.

(20) In a case falling under sub-rule (19), the period of suspension shall be treated as a period spent on duty for all purposes.

(21) In cases other than those falling under sub-rules (18) and (19), the municipal servant shall, subject to the provisions of sub-rules (23) and (24), be paid such amount not being the whole of the pay and allowances to which he would have been entitled had he not been suspended, as the competent authority may determine, after giving notice to the municipal servant of the quantum proposed and after considering the representation, if any, submitted by him in that connection within such period which in no case shall exceed sixty days from the date on which the notice has been served on him, as maybe specified in the notice.

(22) Where suspension is revoked pending finalisation of the disciplinary or the court proceedings, any order passed under sub-rule (17) before the conclusion of the proceedings against the municipal servant, shall be reviewed on its own motion after the conclusion of the proceedings by the authority mentioned in sub-rule (17) who shall make an order according to the provisions of sub-rule (19) or sub-rule (20), as the case may be.

(23) In a case falling under sub-rule (20), the period of suspension shall not be treated as a period spent on duty unless the competent authority specifically directs that it shall be so treated for any specified purpose:

Provided that if the municipal servant so desires, such authority may order that the period of suspension shall be converted into leave of any kind due and admissible to the municipal servant.

**Note:** - The order of the competent authority under the preceding proviso shall be

absolute and no higher sanction shall be necessary for the grant of:-

(a) extraordinary leave in excess of three months in the case of temporary. municipal servant; and

(b) leave of any kind in excess of five years in the case of permanent or quasi-permanent municipal servant.

(24) The, payment of allowances under sub-rule (18), sub-rule (19) or sub-rule (20) shall be subject to all other conditions under which such allowances are admissible.

(25) The amount determined under the proviso to sub-rule (19) or under sub-rule (20) shall not be less than the subsistence allowance and other allowances admissible under sub-rule (2) and (3).

## **Part X-Miscellaneous**

**25. Service of orders, notice, etc** - Every order, notice and other process made or issued under these rules shall be served in person on the municipal servant concerned or communicated to him by registered post.

**26. Powers to relax time-limit and to condone delay** - Save as otherwise expressly provided in these rules, the authority competent under these rules to make any order may, for good and sufficient reasons or if sufficient cause is shown extend the time specified in these rules for anything required to be done under these rules or condone any delay.

## **27. Savings-**

(1) All disciplinary cases pending at the commencement of these rules shall be considered and orders thereon shall be made, in accordance with these rules; as if such orders were made and cases were initiated under these rules.

(2) As from the commencement of these rules any appeal or application for review against any orders made before such commencement shall be preferred or made under these rules, as if such orders were made under these rules.

(3) On matters where the provisions are not laid down in these rules, provisions in the CCS CCA Rules and the instruction of the Govt. of India which are applicable to the Govt. Servants of the A & N Administration shall be applicable.

## **28. The powers to issue directions / instructions:**

Save as expressly provided in this rule, the Administrator may issue directions / instructions / guidelines etc. to the Municipality for the implementation of these service rules, from time to time and the same shall be complied by the Municipality.

## **29. Removal of difficulties and / or inconsistencies -**

(i) Wherever any difficulty and / or inconsistency arises in the case of any provisions / sections / clauses of these rules with respect to any provisions / sections / clauses of the Rules and Bye-laws notified by the A&N Administration under the Regulation, the provisions of these rules shall prevail over the provisions of other rule(s) and / or bye-laws(s).

(ii) Wherever any difficulty and / or inconsistency arises in the case of any provisions / sections / clauses of these rules with that of the provisions / sections / clauses of the regulation, the regulation shall prevail over these rules.

**30. Removal of doubts** - If any doubt arises as to the interpretation of any of the provisions of these rules, the matter shall be referred to the Administrator or such authority as may be specified

by the Administrator by a general or special order, and the decision of the Administrator or such authority shall be final.

(Bhopinder Singh)  
Lt. Governor  
Andaman & Nicobar Islands

By order and in the name of Lt. Governor

(Sashikala Viswanathan)  
Joint Secretary (UD/ULB)

Sd/-  
**(Lt. Genl. (Retd.) Bhopinder Singh, PVSM, AVSM)**  
Lieutenant Governor,  
Andaman and Nicobar Islands.

By order and in the name of Lieutenant Governor,

Sd/-  
**(Sobhana K. Unny)**  
Assistant Secretary (R.R.)  
(F. No.2-124/2006/Rev.)